

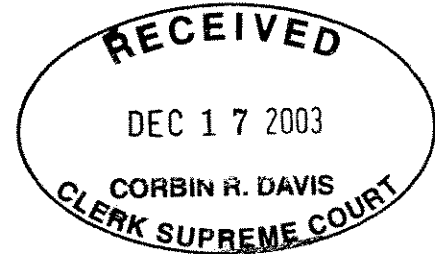


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December 17, 2003

Justices of the Michigan Supreme Court  
Supreme Court Clerk  
P.O. Box 30052  
Lansing, Michigan 48909  
(MSC\_clerk@courts.mi.gov)



Re: Proposed Court Rule #2003-47

Dear Sir or Madame:

I am writing to you concerning the proposed court rule (#2003-47) that would establish an Inactive Asbestos Docketing System in Michigan. Although I believe the concept of an Inactive Asbestos Docketing System has merit, I wish to voice my objection to the overly strict medical criteria (the ABA criteria) that have been proposed for the system. Before discussing the details of my opinion, I wish to summarize my background and expertise on this subject:

Licensed to practice medicine in Michigan since 1989;  
Professor of Occupational Medicine and Director of the Occupational Medicine  
Program at the University of Michigan School of Public Health;  
Board Certified in Occupational & Environmental Medicine  
Board Certified in Internal Medicine  
Certified B Reader  
Fellow of the American College of Occupational and Environmental Medicine

In addition, I am currently the Principal Investigator of a federally-funded research project focused on use of chest radiographs for screening for pneumoconiosis ("Evaluation of Digital Chest Radiographs for Pneumoconioses", Project # S2200-22/22).

Given the imperfections in the asbestos litigation system as they currently exist, it makes some sense to defer suits of claimants who currently have no impairment so that others may move forward to receive more timely, appropriate and fuller compensation. However, the medical criteria proposed for determining which cases could go forward, and which would be entered into an Inactive Asbestos Docketing System, are too inflexible and therefore unjust.

Though possibly only a minority of claimants, there will be numerous cases with asbestos-related disease and impairment who would not meet the proposed criteria (even

with the “backstop” provision) and who would be inappropriately and unfairly entered into an Inactive Asbestos Docketing System. In addition, the total reliance on standard chest radiography, and the exclusion of chest computed tomography (chest CT), particularly high resolution chest CT, fails to reflect the standard of medical practice for non-invasive assessment of interstitial lung disease in Michigan. The absence of consideration of diffusion capacity as part of pulmonary function testing for assessment of impairment is also disturbing.

Please feel free to contact me if you have any questions about my comments. I would be very interested in discussing them with you.

A. J. M. M.